

AG Contract No. KR98 0662TRN
ADOT ECS File No. JPA 98-54
Project No. TEA-CWD-0(2)P
TRACS No. SL405 01C
Project: Old Town Main Street
Pima Street to Pinal Street

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF COTTONWOOD

THIS AGREEMENT is entered into 4 June, 1998,
pursuant to the provisions of Arizona Revised Statutes Section 11-951
through 11-954, as amended, between the STATE OF ARIZONA, acting by
and through its DEPARTMENT OF TRANSPORTATION, (the "State"), and the
CITY OF COTTONWOOD, acting by and through its MAYOR and CITY COUNCIL
(the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, the design and construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for approval.

NO. 22403
Filed with the Secretary of State
Date Filed: 06/04/98
Betsy Bayless
Secretary of State

By Nicky Haenewald

5. The only interest of the State in this project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost is as follows: Landscaping, sidewalks, lighting and related improvements.

| | |
|--------------------------------|---------------|
| Estimated Project Cost | \$109,852.00 |
| Federal Aid Funds @80% | \$ 87,882.00 |
| Cottonwood City funds @20% | \$ 21,970.00 |
| 5% Surcharge | \$ 5,179.00 |
| Total City of Cottonwood Funds | \$ 27,149.00* |

This includes a 5% surcharge on total project cost per Local Government Engineer memo dated 1 October 1991.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the City with the aid and consent of FHWA and the State will proceed to construct the project; such project to be performed, completed, accepted and paid for in accordance with the approved plans and specifications. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur any expenditure in excess.

2. Prior to construction, the City shall set aside sufficient funds in the amount determined to be necessary to match federal funds.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide maintenance unless assumed by another governmental entity.

7. The City will provide personnel to administer and supervise construction. All construction project change orders are to be copied to the State.

8. The City will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

9. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to assure itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of the work and related deposits or reimbursements.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

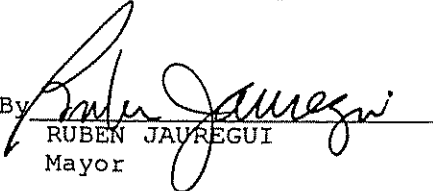
City of Cottonwood
City Engineer
827 N. Main Street
Cottonwood, AZ 86326

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF COTTONWOOD


By


RUBEN JAUREGUI
Mayor

STATE OF ARIZONA

Department of Transportation

By


PETER L. ENO
Contract Administrator

ATTEST

By

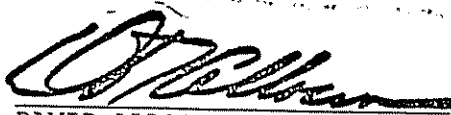

MARIANNE JIMENEZ
City Clerk

7apr

RESOLUTION

BE IT RESOLVED on this 7th day of April 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Cottonwood for the purpose of defining responsibilities for the design, construction and maintenance of landacaping, sidewalk and other related improvements on Old Town Main Street.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID ALLOCCO, Manager
Engineering Technical Group
for Mary E. Peters, Director

RESOLUTION NUMBER 1670

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA, ARIZONA DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION FOR THE OLD TOWN LANDSCAPING PROJECT.

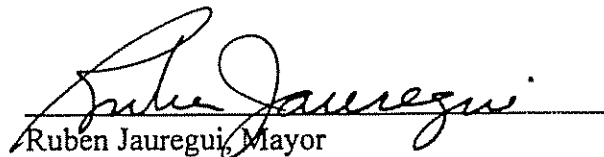
WHEREAS, the State is empowered by A.R.S. §28-401 and 28-334 to enter into this agreement; and

WHEREAS, the City of Cottonwood is empowered by A.R.S. § 48-572 to enter into this agreement.

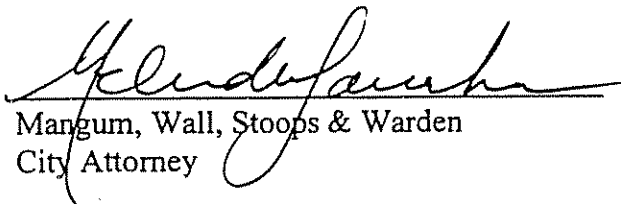
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA:

THAT, the intergovernmental agreement with the State of Arizona, Arizona Department of Transportation, Intermodal Transportation Division, for the Old Town Landscaping Project is hereby adopted, and the Mayor is hereby authorized to sign the agreement.

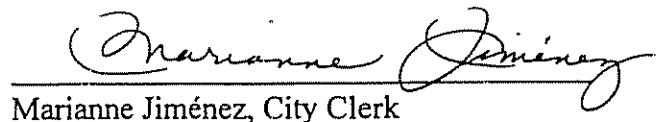
PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 21ST DAY OF APRIL, 1998.


Ruben Jauregui, Mayor

APPROVED AS TO FORM:


Mangum, Wall, Stoops & Warden
City Attorney

ATTEST:


Marianne Jiménez, City Clerk

APPROVAL OF THE COTTONWOOD CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF COTTONWOOD and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 18th day of April, 1998.

Malishewski for
City Attorney Mangum, Wall, Stoogst
Harden, P.C.L.C.



GRANT WOODS
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646
MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-0662TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE May 29, 1998.

GRANT WOODS
Attorney General

A handwritten signature in black ink, which appears to read "James R. Redpath". The signature is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/12717

Enc.